IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 28028 of 2006(J)

PETITIONER:

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1. P.B. AHAMMED, PADINHAREMOOLA HOUSE,
   ALAMPADY POST, KASARAGOD DISTRICT.

2. NASEERA C.A., W/O.P.B. AHAMMED
   PADINHAREMOOLA HOUSE, ALAMPADY POST,
   KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

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1. THE DEPUTY TAHSILDAR
   (REVENUE RECOVERY KERALA FINANCIAL
   CORPORATION), KANNUR.

2. KERALA FINANCIAL CORPORATION
   VELLAYAMBALAM, THIRUVANANTHAPURAM-33,
   REPRESENTED BY ITS GENERAL MANAGER.

3. THE BRANCH MANAGER,
   KERALA FINANCIAL CORPORATION,
   KASARAGOD BRANCH, HIGHLINE PLAZA,
   M.G. ROAD, KASARAGOD.

BY ADV. SHRI. V.B.UNNI RAJ, SC
ADV. SHRI. BASANT BALAJI, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 28028/2006

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE PROVISIONAL STATEMENT OF ACCOUNT IN LOAN NO. 140105210.

P2 : COPY OF THE PROVISIONAL STATEMENT OF ACCOUNT IN LOAN NO. 140079810.

P3 : COPY OF THE PROVISIONAL STATEMENT OF ACCOUNT IN LOAN NO. 140079811.

P4 : COPY OF THE PROVISIONAL STATEMENT OF ACCOUNT IN LOAN NO. 140098010.

P5 : COPY OF THE RENT AGREEMENT EXECUTED FOR LEASING OUT THE BUILDING.

P6 : COPY OF THE SURGICAL DISCHARGE FOLIO ISSUED BY BEECH CANDY HOSPITAL.

P7 : COPY OF THE REPORT FROM A.J.HOSPITAL AND RESEARCH CENTRE, MANGALORE.

P8 : COPY OF THE DISCHARGE CERTIFICATE FROM BABY MEMORIAL HOSPITAL, CALICUT.

P9 : COPY OF THE NOTICE DATED 02/02/2006.

P9(a) : COPY OF THE NOTICE DATED 02/02/2006.

P10 : COPY OF THE LETTER DATED 01/03/2006 SUBMITTED BY THE PETITIOENR BEFORE THE 3RD RESPONDENT.

P11 : COPY OF THE LETTER DATED 03/03/2006 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER.

P12 : COPY OF THE REQUEST AND SUGGESTION FOR THE ONE TIME SETTLEMENT OF THE LOANS.

P13 : COPY OF THE NOTICE DATED 23/8/2006 DEMANDING Rs. 52,57,425/-.

P14 : COPY OF THE DEMAND NOTICE FOR Rs. 46,91,247/-.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 28028 of 2006

Dated, this the 11th day of June, 2007

J U D G M E N T

Petitioners availed several loans for construction of a commercial complex. The construction is over and building is let out for running hospital. Recovery is initiated because petitioners have committed default in repayment. Learned counsel for petitioners submitted that all of the loans, except two, have been repaid much earlier. Learned counsel for KFC submitted that petitioners have remitted Rs. 5 lakhs in terms of interim order of this Court dated 26/10/2006. Since liability is not disputed and prayer is only for grant of OTS benefit, I feel WP(C) can be disposed of giving an opportunity to the petitioners to deposit 10% of the arrears and apply for OTS benefit. Even if OTS benefit is not available now, Corporation is free to grant benefit under the last OTS scheme with direction to the petitioners to pay interest at current rates for belated payment of OTS amount under that scheme. In any case, the Board of Directors of the Corporation can certainly grant incentives for early settlement of liability, more so when, the amount involved is above one crore. In the

circumstances, WP(C) is disposed of directing petitioners to deposit 10% of the arrears of all loan accounts and apply for grant of OTS benefit before the 3rd respondent, within three weeks from now. Third respondent will forward the papers to the Head Office of the Corporation for the Managing Director of the company to communicate OTS benefit to the petitioners without any delay. If petitioners offer any fresh claim for rescheduling of loan and if security is sufficient, Corporation can consider the same. However, if petitioners do not settle liability under OTS scheme or in terms of the offer made by the KFC, it will be open to the respondents to take all coercive steps for recovering entire arrears. Recovery proceedings will be kept in abeyance for one month from now and if petitioners remit 10% of the entire arrears and apply for grant of OTS benefits or other incentives, recovery will remain stayed until default is committed in payment, in terms of the facility granted by KFC.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg